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GOVERNING BOARD

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Julie Alvis, *Deputy Assistant Secretary
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Jennifer Lucchesi, *Executive Officer
State Lands Commission*

Karen Finn, *Program Budget Manager
Department of Finance*

Bryn Forhan
Paul Gibson
Vacant
Citizen Representatives

Melinda S. Marks
Executive Officer

250.20

STATE OF CALIFORNIA
Edmund G. Brown, Jr., Governor

E-1

MINUTES WEDNESDAY, JUNE 6, 2018 SAN JOAQUIN RIVER CONSERVANCY

The San Joaquin River Conservancy Governing Board,
Board Meeting Locations:

Fresno Metropolitan Flood Control District
5469 E. Olive, Fresno CA 93727
and teleconference:
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

MEETING AGENDA

CALL TO ORDER & PLEDGE OF ALLEGIANCE

Mr. Frazier called the meeting to order at 10:00 a.m. and led the pledge of allegiance.

A. ROLL CALL

| Name | Present | Telecon- ference | Absent | Late |
|-----------------------|---------|---------------------|--------|------|
| Mr. Brett Frazier | X | | | |
| Mr. William Oliver | X | | | |
| Mr. Andreas Borgeas | | | X | |
| Mr. Steve Brandau | | | X | |
| Ms. Kacey Auston | | | X | |
| Mr. Carl Janzen | X | | | |
| Ms. Julie Alvis | | X | | |
| Mr. Gerald Hatler | X | | | |
| Mr. Kent Gresham | X | | | |
| Mr. John Donnelly | X | | | |
| Ms. Jennifer Lucchesi | X | | | |
| Ms. Karen Finn | | | X | |
| Ms. Bryn Forhan | X | | | |
| Mr. Paul Gibson | X | | | |

Ms. Bains confirmed a quorum was present.

Legal Counsel Present: Michael Crow, Deputy Attorney General

Staff present: Melinda Marks, Executive Officer
Rebecca Raus, Associate Governmental Program Analyst
Jasanjit Bains, Staff Services Analyst
Heidi West, Program Manager, San Joaquin River Conservancy
Projects, Wildlife Conservation Board

B. PUBLIC COMMENT & BUSINESS FROM THE FLOOR

The first ten minutes of the meeting are reserved for members of the public who wish to address the Conservancy Board on items of interest that are not on the agenda and are within the subject matter jurisdiction of the Conservancy. Speakers shall be limited to three minutes. The Board is prohibited by law from taking any action on matters discussed that are not on the agenda; no adverse conclusions should be drawn if the Board does not respond to the public comment at this time.

Mr. Ted Morgan, a resident of Fresno, expressed concern regarding the removal of the mature Sycamore trees at Palm and Nees. He urged the Board to ask questions about the actual progress of the project and more than a decade of delays.

C. ADDITIONS TO THE AGENDA

Items identified after preparation of the agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Gov. Code § 54954.2(b)(2))

None.

D. POTENTIAL CONFLICTS OF INTEREST

Any Board member who has a potential conflict of interest may identify the item and recuse themselves from discussion and voting on the matter. (FPPC §97105)
conflicts of interest.

Mr. Crow advised that the California Department of Fish and Wildlife representative, Mr. Hatler, should recuse himself from confidential Agenda Item H-1. Mr. Hatler confirmed he will not participate in the closed session.

E. CONSENT CALENDAR

E-1 Approve Minutes of May 2, 2018

It was moved by Mr. Oliver and seconded by Mr. Gibson to approve the minutes of May 2, 2018, as presented. The members unanimously passed the motion as follows:

ROLL CALL VOTE:

| Name | Yes | No | Abstain |
|--------------|-----|----|---------|
| Mr. Frazier | X | | |
| Mr. Oliver | X | | |
| Mr. Janzen | X | | |
| Mr. Hatler | X | | |
| Mr. Gresham | X | | |
| Mr. Donnelly | X | | |
| Ms. Alvis | X | | |
| Ms. Lucchesi | X | | |
| Ms. Forhan | X | | |
| Mr. Gibson | X | | |

F. DISCUSSION ITEMS

F-1 Mid-Year Status Report on Progress toward meeting River West Fresno, Eaton Trail Extension and North Palm Access Benchmarks

Staff Recommendation: This report is for informational purposes. No Board action is recommended. Board members should provide feedback regarding the progress and their expectations to the participating parties.

Ms. Marks noted that this item is presenting the half-way point in the year provided by the Board to achieve benchmarks in implementing the River West Trail Extension Project and North Palm Access. In December 2017, the Board adopted Resolution 17-02 on the condition that specific benchmarks must be accomplished within a 1-year period: 1. The property would be purchased by the San Joaquin River Access Coalition (SJRAAC); 2. A public access easement would be recorded by the Conservancy or another entity for the project; 3. The landfill post-closure land use plan would be approved; 4. City exceptions to the tree removal and bluff protection ordinances would be secured; and 5. The restrictions and issues associated with the Spano easement would be resolved. Ms. Marks noted the resolution also included exploring State acquisition of the property.

Ms. Marks noted that as explained in the staff report, it is not possible to get final approval of the post closure land use plan and ordinance exemptions until we have final construction plans, which are not yet funded or in progress. All parties involved are making good progress, with diligence and in good faith. Preliminary approvals of the post closure plan and ordinance exemptions will be secured by December 31, 2018, which will assure that the project is feasible. Those approvals will set the parameters for what would need to be incorporated later in final design documents.

Ms. Marks continued, the Board had directed that the core project elements be implemented as soon as possible. There is no operations and maintenance commitment to implement the core project elements—a significant constraint for construction. Staff, with input from the City of Fresno and the River Parkway Trust, put together a ballpark estimate for operations and maintenance costs ranging between \$250,000 to \$450,000 per year, including two on-site staff at all times—a high staffing level, compared for instance to Friant Cove. Staffing is a large portion of the cost estimate, and would vary depending on the operating agency's hiring practices (i.e., pay level, benefits, concessions, etc.). There would be an option to collect user fee revenues. The user fee revenue estimate of about \$50,000 in revenue per year is based on Friant Cove and Sycamore Island visitation.

Ms. Marks noted that the City of Fresno and County of Fresno both have Measure C funds available to operate trails for the first five years. There is also a proposed local sales tax measure for parks. Once operations and maintenance are secured then the Conservancy can proceed with permitting, design, and construction.

On inquiry from Mr. Oliver, Ms. Marks reported that Measure C funds are allocated by the transportation authority to the City and County, so those agencies would determine whether to use Measure C funds for this project. There is also an allocation for the Parkway in the proposed parks sales tax; if that measure passed it could kick start operation budget discussions with the agencies. Measure C funds could pay \$25,000 per year (\$10,000 per mile) for five years.

On inquiry from Mr. Frazier, Ms. Marks explained that the projected fee of \$5 per vehicle would be similar to Woodward Park, used as an example. The Board could set the fee. Collecting fees has a cost in itself.

There was discussion among the Board regarding the estimated cost, staffing, and costs associated with collecting user fees. Staff noted that the estimate was not very refined—in order to refine it, you would need specifics from the entity that planned to operate the site.

Mr. Gibson commented that the site could operate at much less cost, if it was a part-time operation like Sycamore Island. Sycamore Island is more isolated, and it might not be possible to operate River West part-time, but the Board could consider that.

On inquiry from Mr. Gibson, Ms. Marks confirmed that the estimate in the staff report is just for the costs of operating the Perrin staging area and trail, referred to as the core project elements.

Ms. Marks continued regarding the North Palm Access benchmarks, critical for this year. The first benchmark for the North Palm Access is for the SJRAC to close escrow. The SJRAC is planning on closing escrow in September. They are focusing on the post closure land use plan so that they understand their obligations as landowners, and on negotiating revisions to the Spano easement, included in the purchase option agreement, to ensure that the Board-approved project is approved by the grantee, Mr. Spano. They have secured a consultant for the post closure plan, and secured input from the County of Fresno and Regional Water Quality Control Board. The constraints and requirements are understood, and no more site assessments are required—all required data is available. The consultant is completing the preliminary post closure plan for preliminary approval by September. Preliminary approval should be adequate to demonstrate the project is feasible. Grading, fill, irrigation, structures, etc. will be included. Final approval cannot be secured until final construction plans are in-hand. Funding authorization and work on final plans would proceed in a later phase, once operations and maintenance is assured.

Mr. Donnelly suggested that the Conservancy might be able to accelerate engineered plans for this project, even if operations and maintenance are not yet secured.

Ms. Marks agreed that her discussion reflected past practice, but that we might be missing out on opportunities because we don't have shelf-ready construction plans. The Wildlife Conservation Board and Department of Finance could provide guidance as to how the Conservancy could authorize construction engineering in advance for the entire project. We would need to determine who to grant the funds to: The Conservancy does not have the staff to bid and manage large engineering design projects, and we don't have authority to construct large scale projects. Ideally we need a partner, or we can work with the Department of General Services. There are

possibilities to accelerate the project—although there are still many steps that take a lot of time for budgeting, funding, permits, bidding, contracting, etc.

Mr. Donnelly emphasized that we should begin looking into opportunities to get the construction plans done as soon as possible.

Ms. Forhan expressed her agreement. We need to look at what can be done concurrently. It is imperative that we can press on, and determine next steps.

Ms. Marks stated that construction grants require an operation and maintenance commitment for 30 years, but that other phases might be able to proceed to get projects shelf ready.

Mr. Frazier mentioned that many tasks must occur in a sequence.

Mr. Oliver suggested that the two projects—e.g., the River West and North Palm Access projects—could be worked on separately, but simultaneously.

Mr. Janzen concurred about getting started with construction plans. It's important for the new Executive Officer to provide expertise to lead these projects.

Mr. Gibson asked if the bond funds could be used for design-build-manage projects. Mr. Donnelly responded the State bond funds can be used to manage construction; however, the burden remains on staff to write agreements, approve invoices, manage budget changes, etc. Mr. Gibson asked about whether a consultant could be hired to manage the workload.

Ms. Marks explained that when a State agency builds a project on State land, that design-build-manage consultant is the State Department of General Services (DGS). Construction of major capital projects cannot be performed by the Conservancy, and must be performed DGS. The Conservancy has the delegated authority to construct small projects, but not something of this scale.

Mr. Hatler added working with DGS would mean commitment to their timeline, which could be longer than the Board expects.

Ms. Marks mentioned that ideally if the City of Fresno would be willing to do the engineering contract, even if they do not commit to 100% operations and maintenance, that could achieve a "shovel-ready" project.

Mr. Frazier suggested that the River West Project could be implemented in separate phases, to show forward motion and accomplish real changes.

Ms. Marks continued, there has been no indication the North Palm Access is infeasible or post closure land use plan cannot be approved. In implementation meetings, there has been good feedback from the County of Fresno Health Department and the Regional Board. Further, Mr. Scott Mozier, Director, City of Fresno Public Works, has been participating in the work-group meetings and he believes the exceptions and variances for the ordinances are approvable on a preliminary basis.

Mr. Donnelly asked whether the post-closure plan will allow trees, shade structures, and the other elements approved by the Board. Ms. Marks reported the plan will allow shade structures. For most post closure plans enclosed buildings are of concern because of the potential generation of

methane from typical closed landfills. Open structures, such as a kiosk and picnic shelters, are not an issue. There is no indication in the data that the site generates methane. The vault restroom would need to be built away from the landfill site, out of the 100-year floodplain, in any case. The Regional Water Quality Control Board and County Health Department are open to considering irrigation and shade trees.

Mr. Marks continued to report that both the Bluff Protection Overlay District and the Tree Removal ordinance exemptions need to be approved by the City of Fresno. There may be an arborist report required as indicated in a letter from Ms. Sharon Weaver. City of Fresno staff would submit applications to the City Council for preliminary approval of exceptions; later, we would need to submit the final construction drawings in order to get final approval of the exceptions. The Conservancy does not expect the final construction drawings to be completed by December 2018.

Ms. Marks mentioned issues associated with the Spano easement. The original easement presented to the Board in December granted Mr. Spano control of future development plans on the property. The SJRAC has been working to get Mr. Spano's advanced approval of everything we want to do at the site, so that the SJRAC can close escrow, and the Conservancy and/or its partners can build and operate the project and future trail connections without Mr. Spano's control or potential future rejection. The last version of the easement staff reviewed would not only provide approval of the Board-approved project, but also approve foreseeable future projects under the Parkway Master Plan. The SJRAC is recommended to submit a revised easement to the Board for consideration at the next meeting.

Mr. Frazier stated the Board would be concerned about the potential for giving land use control to a neighboring developer, as was granted in the earlier version of the easement.

Mr. John Kinsey, attorney representing the SJRAC, reported that the SJRAC is still in the middle of negotiations. A revised easement was presented to Mr. Spano and reviewed by City of Fresno and Conservancy staff. The revised easement would affirm Mr. Spano's approval of the project as planned. It is their intent that the agencies would not need Mr. Spano's approval for the approved project after escrow closes on the option. The SJRAC is very happy about the progress. They appreciate the assistance provided by the agencies to help direct their consultant on the post closure plan. Mr. Kinsey thanked the Board for their discussion.

On request by Mr. Oliver to elaborate, Mr. Kinsey stated the agency would not need Mr. Spano's approval once escrow is closed because the project plans and operations would be acknowledged, presented, and approved in the revised easement.

On inquiry by Mr. Frazier about possible changes in the future, such as changes in the operating hours, Mr. Kinsey reported that the SJRAC is trying to provide some flexibility. Mr. Spano did request that the number of parking spaces be limited to what is in the approved Environmental Impact Report (EIR). With that exception, they are trying to allow adequate flexibility. Mr. Frazier noted that any increase in parking would require further environmental review.

On inquiry by Mr. Hatler regarding availability of the easement document to the Board, Ms. Marks stated the easement document will be provided to the Board as soon as it is available.

Mr. Gibson asked Mr. Donnelly what steps are necessary to have design plans for the core project and the North Palm Access—a budget for funding, timing—assuming the City would be the project manager.

Mr. Donnelly stated that the sooner the easement restrictions granted to Mr. Spano are known, the better. If the easement does not allow for building the planned project, we need to know that. If the easement is not acceptable, the project cannot move forward. The Wildlife Conservation Board staff should see the easement sooner rather than later, before negotiations are finalized. He requested the agency to be part of the conversation.

Mr. Kinsey committed to provide a copy of the redrafted easement in advance to Wildlife Conservation Board staff.

Ms. Marks added a key thing needed from the SJRAC is assurance that they will have acquired enough property rights so the SJRAC can grant a permanent public access easement to the State. We need permanence prior to investing in public access in the North Palm Access project.

Mr. Gibson asked if the revised easement would be presented at the August 1st meeting.

Mr. Kinsey offered to send the most recent revised version to Wildlife Conservation Board and Conservancy staff as soon as they get it back from Mr. Spano.

Ms. Marks summarized the easement as she has seen it to date: it basically conforms to approval of the project as the Board has approved it, and it also approves future projects to connect off-site to existing easements and trails to Palm Bluffs, as shown in the Parkway Master Plan. It includes things like operating hours and lighting mitigation as approved by the Board and in conformance to local ordinances.

Ms. Lucchesi expressed concern about the time it will take to meet benchmarks and proceed with the project.

Ms. Marks explained that at the time of the Board's approval of the project, there would not have been enough time for final construction plans to be developed for final approval of some of these benchmarks. The Board's discussion at the time was focused on creating benchmarks in order to determine if in fact the project is feasible. Staff believes preliminary approval is important, and if secured, will confirm that the project is feasible.

Ms. Lucchesi acknowledged the constraints of achieving final construction and engineering in the timeframe set by the Board, and the need for preliminary approval of the ordinance exceptions and post closure plan. She was most concerned about the uncertainty associated with the language in the easement and the time it might take to resolve any issues.

Ms. Marks agreed, noting that staff was bringing these issues to the Board now and in the next months, rather than waiting to December, to ensure any problems can be identified and resolved.

Mr. Donnelly expressed his preference that the SJRAC and Spano would open this as a three-way negotiation with State representatives involved. Ms. Marks took responsibility for not including WCB staff in the first review of the revised easement; Conservancy and City staff were specifically asked by SJRAC to comment at that time.

Mr. Gresham expressed concern regarding the limited number of parking spots allowed in the easement. Later on, the project operator might need more parking. The parking facilities are where user fees can be collected; larger lots generate more revenue.

Ms. Marks reported that after the SJRAC acquires the property, the Conservancy and Wildlife Conservation Board staff would negotiate a permanent access easement. WCB staff is developing an outline of the terms and conditions of such as easement. Also, the Board can best evaluate whether it would be worthwhile to negotiate to acquire fee title after the easement and post closure plan are available. The fee title or easement acquisition process can take a year.

Mr. Gibson noted we can negotiate fee title or a public access easement. He encouraged WCB staff to consider either.

Public Comments:

Mr. Tom Bohigian, a resident of Fresno, congratulated Mr. Frazier for his reelection as the Supervisor for District 1 for Madera County. He was disappointed in the timelines presented in the staff report. He has provided trash cans on the property, and people are using them. The public is already using the property currently to ride bikes, hike, etc. and wants to see the River West project move forward. He thinks the Board should move forward with access using the existing trails, which would cost very little, until the permanent solution is worked out. Two full time staff at the site are not needed. The restoration projects are growing well. We should start allowing use of what is there now in the meantime.

Ms. Sharon Weaver, Executive Director, San Joaquin River Parkway and Conservation Trust, expressed concern regarding the North Palm Access process. The key issue with the post closure land use plan is who will be responsible long term for meeting the closure requirements. The second issue is the access road: there is no clarity on who would ultimately be responsible for building it and for the permits. The work group has been focused on the landfill and not on the access road.

Board Comments:

Mr. Janzen requested staff to provide a guideline for how to move forward with getting the engineering plans complete without waiting to have operations and maintenance agreements in place. Mr. Gibson expressed his agreement.

Mr. Donnelly noted that he and his staff have been concerned about the access road as well. Mr. Donnelly introduced Heidi West and Daniel Vasquez of Wildlife Conservation Board staff.

Ms. Marks reported the next meeting of the work group is next week via phone conference.

No action was taken by the Board.

F-2 Status Report for Informational Purposes on Assembly Bill 3218, Authored by Assembly-member Dr. Joaquin Arambula

Staff Recommendation: This item is presented for informational purposes only. No Board action is recommended.

Ms. Marks noted Assembly Bill 3218 has been amended and passed by Assembly committees. The bill authorizes State Parks to enter into management agreements with the Conservancy. It is consistent with existing laws and authorities, does not include appropriations, and was revised to delete a requirement for specific priorities. The bill does not include any funds to enter into operations agreements.

Ms. Anna Garcia, Chief of Staff for Assemblymember Arambula, provided an update of the status for Assembly Bill 3218 and stated it passed with a 64-0 vote. Ms. Garcia thanked the Board for their participation and stated Assemblymember Arambula understands the ongoing issue with operations and maintenance. He is committed to trying to find a partner to resolve the issue.

The Board thanked Ms. Garcia and Assemblymember Arambula's office for their commitment and leadership.

On inquiry by Mr. Gibson regarding the Conservancy funds and revenue sources for State Parks to operate Friant Cove and Lost Lake, Ms. Marks described interagency agreements with State Parks and the SJRC fund revenue generated by the Vulcan Materials lease. A proposal to expand State Parks operations to Lost Lake Park and other parts of the Parkway would require much more funding.

On inquiry by Mr. Gibson regarding day use fees, Mr. Gresham stated the fee at Millerton Lake is \$10 per vehicle. Ms. Marks added the fee at Sycamore Island is \$9 per vehicle.

No action was taken by the Board.

G. ADMINISTRATIVE AND COMMITTEE REPORTS

G-1 Organizations

If time allows, the following oral reports will be provided for informational purposes only, and may be accompanied by written reports in the Board packet. No action of the Board is recommended.

G-1a San Joaquin River Parkway and Conservation Trust

Ms. Weaver reported the River Parkway Trust is in the process of reconstructing the barn.

G-1b RiverTree Volunteers

Mr. Sloan reported the organization has been working with the homeless to pick up trash. They are beginning to implement a program to provide free trips to children in foster care.

G-2 Deputy Attorney General

None.

G-3 Executive Officer

Ms. Marks reported Proposition 68, the Parks, Environment and Water Bond, has passed and would allocate \$6 million in bond funds to continue the San Joaquin River Parkway development. The bond act has a target to serve disadvantaged and severely disadvantaged communities, which are served by the Conservancy's programs. The funds may not be used for operations and maintenance. Board member Julie Alvis with the California Natural Resources Agency will be administering the agency's Proposition 68 bond funds.

G-4 Board Members' Reports

Ms. Alvis provided further information on Proposition 68, stating the timing of the bond act is close to the state budget start date July 1, 2018. The administration and the Legislature have been working on how much of the bond would be appropriated for Fiscal Year 18/19.

H. EXECUTIVE SESSION

Mr. Halter recused himself from closed session due to the conflict of interest.

Public Comments: Before convening in closed session, members of the public will be provided the opportunity to comment on Executive Session agenda items.

There were no public comments.

H-1 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9:
1 potential case

Mr. Crow reported out of close session that the Board provided direction to staff with regard to the potential litigation with the lease, Bluff Point Golf Center.

I. NOTICE OF BOARD, ADVISORY, AND PUBLIC MEETINGS

None.

J. NEXT BOARD MEETING DATE


The next Board meeting was scheduled August 1, 2018, and subsequently cancelled. **Please note the earlier starting time of 10:00 a.m. for meetings in February through October.**

K. ADJOURN

Mr. Frazier adjourned the meeting at approximately 12:07 p.m.

Board meeting notices, agendas, and approved minutes are posted on the Conservancy's website, www.sjrc.ca.gov. For further information or if you need reasonable accommodation due to a disability, please contact Jasanjit Bains at (559) 253-7324 or Jasanjit.Bains@sjrc.ca.gov.

Respectfully Submitted,



Melinda S. Marks, Executive Officer